

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ERNEST KEVIN TRIVETTE, ET AL.,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:20-cv-00276
)	Judge Trauger
)	
TENNESSEE DEPARTMENT OF CORRECTION,)	
)	
)	
Defendant.)	

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT**

Pursuant to FRCP Rule 15(a)(2) and LR15.01, Plaintiffs Ernest Kevin Trivette and Disability Rights Tennessee (DRT), by and through counsel, move this Court for leave to file the attached First Amended Complaint. Counsel for Plaintiffs have conferred with counsel for Defendant Tennessee Department of Correction (TDOC); Defendant opposes this Motion.

On March 31, 2020, Mr. Trivette and DRT filed a Complaint, ECF No. 1, regarding TDOC's failure to provide effective communication to Mr. Trivette and other deaf and hard of hearing inmates in the custody of TDOC. Plaintiffs alleged violations of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131 *et seq.*, and Section 504 of the Rehabilitation Act ("Section 504"), 29 U.S.C. § 794. In its representative capacity, DRT filed the Complaint on behalf of deaf and hard of hearing inmates in the custody of TDOC.

Plaintiffs seek leave to amend their Complaint for the purpose of adding as plaintiffs Alex Gordon Stinnett and Jason Andrew Collins. Both Mr. Stinnett and Mr. Collins are Deaf and are currently in the custody of TDOC. From the time they entered TDOC custody in early

2020 and ongoing, TDOC has failed to provide them with effective communication. This includes but is not limited to failure to provide qualified sign language interpreters and the lack of equal access to TDOC's phone program. In addition, TDOC lacks policies and procedures for ensuring effective communication and in some instances, such as its rules regarding phone usage by deaf inmates, has in place discriminatory policies. These violations are consistent with those alleged by Plaintiffs in their Complaint.

Adding Mr. Stinnett and Mr. Collins as plaintiffs is in the interest of judicial economy because their claims against TDOC and the relief they are seeking are identical to those of Plaintiffs Trivette and DRT. In addition, adding Mr. Stinnett and Mr. Collins addresses alleged timeliness and standing issues raised by TDOC in its pending Motion to Dismiss, ECF. No. 10. Because Mr. Stinnett and Mr. Collins are currently in TDOC custody and allege past and ongoing discrimination, their claims are timely, and they have standing to pursue all available remedies including injunctive relief and damages.

Allowing Plaintiffs to file an amended complaint is within this Court's discretion. Pursuant to FRCP 15(a)(2), "leave shall be freely given when justice so requires." This case is in the early stages. No scheduling order has been entered and no discovery has been conducted. This is Plaintiffs' first motion to amend and they do not seek to do so for any improper purpose. In addition, the amendment is not futile. Accordingly, this Court should grant this Motion and allow Plaintiffs to file the attached First Amended Complaint.

A Memorandum in support is filed contemporaneously herewith.

Respectfully submitted,

DISABILITY RIGHTS TENNESSEE

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Attorneys for Plaintiffs.

Dated: July 13, 2020

CERTIFICATE OF SERVICE

I certify that, on July 13, 2020, I served the foregoing document upon all parties herein by e-filing with the CM/ECF system maintained by the court which will provide notice to the following:

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